

### **REMARKS**

Applicant wishes to thank the Examiner for the thoughtful examination. In view of the amendments and the following remarks, Applicant respectfully requests reconsideration and allowance of the subject application. It is initially noted that no rejection was made of claim 20. This claim is therefore believed to be allowable.

### **AMENDMENTS**

Independent claims 1, 10, 17, 22 and 28 are amended herein. Support for these claim amendments can be found in the original disclosure at least at paragraph [0030] on page 9 and paragraph [0036] on page 11. Dependent claims 3, 5-7, 19-21, and 25-27 and have been amended to be consistent with the amended independent claims upon which they depend. Claims 2, 4, 11, 18, 23, and 24 are canceled without prejudice, waiver, or disclaimer of the subject matter.

### **INFORMATION DISCLOSURE STATEMENT**

The examiner has commented on two Information Disclosure Statement (IDS) documents that were filed on 5/23/2005 and 6/20/2006. Applicant did not submit these IDS documents. It would appear that these IDS documents were inadvertently and mistakenly associated with this application, i.e., 10/800,897, rather than the number indicated on each IDS, 10/800,987. Applicant respectfully requests that the examiner clarify this issue.

## **DRAWINGS**

The examiner has also commented that the subject matter of this application admits of illustration by a drawing. The examiner therefore requests drawings under 37 CFR 1.81(c). Applicant notes that seven pages of drawings were submitted with the application on March 15, 2004. The replacement drawings allegedly submitted on 6/30/2006 were not submitted by applicant and, in fact, do not appear in PAIR. It is therefore believed that, similar to the IDS documents mentioned above, these drawings were inadvertently associated with the wrong application. Applicant respectfully requests that the examiner clarify this issue.

## **REJECTION OF CLAIMS 9-34 UNDER 35 U.S.C. § 101**

Claims 17-21 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Without conceding the propriety of the rejection, and in the interest of expediting allowance of the application, claims 17-21 are amended as suggested by the examiner. Support for the amendment can be found in paragraphs 30 through 37. Applicant respectfully submits that these claims now comply with §101 and respectfully requests that the §101 rejections be withdrawn.

**REJECTION UNDER 35 U.S.C. §102(e)**

Claims 1-3, 5-11, 13-17, 21-23, and 25- 30 stand rejected under 35 U.S.C. § 102(a) as being anticipated by Sarolahti et al.: “F-RTO: An Enhanced Recovery Algorithm for TCP Retransmission Timeouts,” (hereafter “Sarolahti”). Applicant respectfully traverses the rejection.

Nevertheless, without conceding the propriety of the rejection, and in the interest of expediting allowance of the application, independent claims 1, 10, 17, 22, and 28 have been amended as proposed during the interview and are, therefore, believed to be allowable. Applicant respectfully requests that the §102 rejections be withdrawn.

**REJECTION UNDER 35 U.S.C. §103(a)**

Claims 4, 12, 18, 19, and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the single reference of Sarolahti et al.: “F-RTO: An Enhanced Recovery Algorithm for TCP Retransmission Timeouts,” (hereafter “Sarolahti”). Applicant respectfully traverses this rejection.

Nevertheless, without conceding the propriety of the rejection, and in the interest of expediting allowance of the application, independent claims 1, 10, 17, 22, and 28 have been amended as proposed during the interview and are believed to be allowable. Claims 4, 12, 18, 19, and 24, which depend on these independent claims, are therefore also believed to be allowed. Applicant respectfully requests that the §103 rejections be withdrawn.

## CONCLUSION

**Claims 1, 3, 5-10, 12-17, 19-22, and 25-30** are in condition for allowance. For at least the foregoing reasons, these claims are believed to be in condition for allowance.

If any issue remains unresolved that would prevent allowance of this case, **the Examiner is requested to contact the undersigned attorney to resolve the issue.**

Respectfully submitted,

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